IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Applicants: Michael Anthony Pugel; Douglas Edward Lankford; John Joseph Curtis III; Keith Reynolds Wehmeyer; Mike Arthur Derrenberger; Terry Wayne Lockridge; Andrew Eric Bowyer

Filed : 12 September 2005

For : APPARATUS AND METHOD FOR DISTRIBUTING SIGNALS

Examiner: Robert J. Hance

Art Unit : 2421

APPEAL BRIEF

MAIL STOP APPEAL BRIEF - PATENTS
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

This is an Appeal Brief responsive to the final rejection dated 23 December 2008, rejecting Claims 1-17 and 20-28, all of the pending claims. Please charge the fee for this Brief to Deposit Account No. 07-0832.

CERTIFICATE OF TRANSMISSION

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__March 30, 2009_____ __/Kathleen Lyle/_____
Date Kathleen Lyles

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Real Party in Interest

The real party in interest is the assignee of record:

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France

Related Appeals and Interferences

The Appellants assert that no other appeals or interferences are known to the Appellants, their legal representatives, or assignee, which will directly affect or be directly affected by, or have a bearing on, the decision of the Board in the pending appeal.

Status of Claims

The finally rejected Claims are set forth in the Claims Appendix. All amendments to the Claims have been entered. No Claim has been allowed.

Status of Amendments

All amendments have been entered.

Summary of Claimed Subject Matter

The following is a recitation of independent Claims 1, 10 and 20, with reference to the instant specification and drawing:

1. A server apparatus (20, page 4, line 16), comprising:

receiving means (21, page 6, line 4) for receiving broadcast signals;

first processing means (28, 29, page 6, lines 9 and 10) for generating first analog signals responsive to said received signals;

second processing means (31-33, page 6, lines 11-13) for generating second analog signals responsive to said received signals, wherein the first analog signals have a different encoding than the second analog signals (page 8, lines 7-12), and said first analog signals are provided to a first client device (50, page 4, line 12) via a transmission medium (page 4, lines 17-19) connecting said server apparatus (20) and said first client device (50) in response to a first request signal (page 12, lines 20-28) requesting a first desired processed analog signal by identifying a first program and further wherein said second analog signals are provided to a second client device (60) via said transmission medium connecting said server apparatus (20) and said second client device (60) in response to a second request signal requesting a second desired processed analog signal by identifying a second program; and

control means (35, page 12, line 23) for detecting available frequency bands on said transmission medium, wherein said available frequency bands are used to provide said first analog signals to said first client device (50) and to provide said second analog signals to said second client device (60), and

means (21, lines 27-28) for causing said transmission medium to be shared between said processed analog signals and other broadcast signals distributed over said transmission medium.

10. A method (400) for distributing signals from a server apparatus to a first client device and a second client device, comprising steps of: receiving signals from a broadcast source (410, page 17, lines 4-5);

generating first analog signals responsive to said received signals (430, page 17, line 17);

generating second analog signals responsive to said received signals (440, page 18, lines 9-10), wherein the first analog signals have a different encoding than the second analog signals (page 18, lines 22-24;

detecting an available frequency band on said transmission medium (420, page 17, lines 10-12), wherein said available frequency band is used to provide said first analog signals to said first client device (page 18, lines 5-8);

providing said first analog signals to said first client device via ~~a~~ said transmission medium connecting said server apparatus and said first client device (450, page 18, line 31 to page 19, line 3) in response to a first request signal requesting a first desired analog signal by identifying a first program;

detecting an available frequency band on said transmission medium (420, page 19, lines 7-10), wherein said available frequency band is used to provide said second analog signals to said second client device; and

providing said second analog signals to said second client device via said transmission medium connecting said server apparatus and said second client device (460, page 19, lines 7-10) in response to a second request signal requesting a second desired analog signal by identifying a second program, thereby causing said transmission medium to be shared between said analog signals and other broadcast signals distributed over said transmission medium.

20. A server apparatus (20, page 4, line 16), comprising:

a receiving element (21, page 6, line 4) operative to receive broadcast signals;

first processing elements (28, 29, page 6, lines 9 and 10) operative to generate first analog signals responsive to said received signals;

second processing elements (31-33, page 6, lines 13) operative to generate second analog signals responsive to said received signals, wherein the first analog signals have a different encoding than the second analog signals (page 8, lines 12) and

a controller (35, page 12, line 23) operative to detect available frequency bands on said transmission medium, wherein said first analog signals are provided to a first client device (50) via a transmission medium connecting said server apparatus (20) in response to a first request signal (page 12, lines 20-28) requesting a first desired analog signal by identifying a first program and said first client device (50) and further wherein said second analog signals are provided to a second client device (60) via said transmission medium connecting said server apparatus (20) and said second client device (60) in response to a second request signal requesting a second desired analog signal by identifying a second program, and further wherein said available frequency bands are used to provide said first analog signals to said first client device (50) and to provide said second analog signals to said second client device (60).

Grounds of Rejection to be Reviewed on Appeal

1. Whether Claims 1, 10 and 20 are patentable under 35 USC 103(a) over Naden WO 01/56297, Kliger et al US 2002/0069417, Sezaki US 2002/0001041 and Thomas et al US 5,920,801.

2. Whether Claims 3-5, 8, 11-13, 16, and 21-24 are patentable under 35 USC 103(a) over Naden WO 01/56297, Kliger et al US 2002/0069417, Sezaki US 2002/0001041 and Thomas et al US 5,920,801.

3. Whether Claims 2 and 11 are patentable under 35 USC 103(a) over Naden WO 01/56297, Kliger et al US 2002/0069417, Sezaki US 2002/0001041, Thomas et al US 5,920,801, and RG 59 cable.

4. Whether Claims 6, 14 and 25 are patentable under 35 USC 103(a) over Naden WO 01/56297, Kliger et al US 2002/0069417, Sezaki US 2002/0001041, Thomas et al US 5,920,801, and McCalley et al US 5,191,410.

5. Whether Claims 7, 15 and 26 are patentable under 35 USC 103(a) over Naden WO 01/56297, Kliger et al US 2002/0069417, Sezaki US 2002/0001041, Thomas et al US 5,920,801, McCalley et al US 5,191,410 and Harper et al US 5,537,141.

6. Whether Claims 9, 17 and 28 are patentable under 35 USC 103(a) over Naden WO 01/56297, Kliger et al US 2002/0069417, Sezaki US 2002/0001041, Thomas et al US 5,920,801, Harper et al US 5,537,141 and Dufour et al US 6,049,717.

Argument

The Examiner has noted that the Appellants have not traversed the Examiner's assertion that RG-59 cable was known at the time of filing of the instant application. The Examiner is correct, and in fact, some of the limitations and disadvantages of RG-59 cable are discussed in the instant specification from page 1, line 25, to page 2, line 20. The instant invention allows expanded use of RG-59 cable.

The Examiner has rejected Claims 1, 10 and 20 as being unpatentable over the combination of Naden WO 01/56297, Kliger et al US 2002/0069417, Sezaki US 2002/0001041 and Thomas et al US 5,920,801. The Appellants can not agree.

Naden relates to a home video distribution system in which signals from multiple satellite sources are distributed to multiple receivers. The Examiner admits that Naden fails to disclose analog signals, and finds the use of analog signals in Kliger et al.

Kliger et al relates to a cable television network which distributes digital data. Kliger et al converts the digital data to analog data for use by an analog television receiver.

Even if the structure of Naden were to be combined with the structure of Kliger et al, the Examiner admits that the combination would fail to generate first and second analog signals having different encodings. The Examiner finds first and second analog signals having different encodings in Sezaki.

Even if the structure of Naden were to be combined with the structure of Kliger et al and Sezaki, the Examiner admits that the combination would fail to provide means for detecting available frequency bands on a transmission medium. The Examiner finds means for detecting available frequency bands in a transmission medium in Thomas et al. The Examiner has asserted that it would be obvious to combine the four cited references to obtain the subject matter of Claims 1, 10 and 20. The Appellants can not agree.

Sezaki combines multiple video data on a single transmission line 58 by multiplexing, as described on page 5, paragraph [0063], and shown in Figure 12. Sezaki has no need to search for an available frequency band because all signals are multiplexed into a single signal. Thomas et al searches for an available frequency band. However, there is no reason for a person skilled in the art to combine Sezaki with Thomas et al, since Sezaki multiplexes all of his data into a single signal. It is therefore clear that Thomas et al would give no benefit to Sezaki, and that the Examiner's proposed combination of Sezaki with Thomas et al, to reject Claims 1, 10 and 20, is improper.

Claims 2 and 11 are dependent from Claims 1 and 10, respectively, and add a further advantageous feature. The Examiner has asserted that the use of RG-59 cable was well known at the time of the invention. The Appellants agree, and point out that the instant specification discusses some of the limitations and disadvantages of RG-59 cable, from page 1, line 25, to page 2, line 20. The instant invention allows expanded use of RG-59 cable. The Appellants therefore submit that Claims 2 and 11 are patentable as their parent Claims 1 and 10.

Claims 3 to 5 are dependent from Claim 1, and add further advantageous features. The Appellants submit that these subclaims are patentable as their parent Claim 1.

The Examiner has additionally applied US 5,191,410, to McCalley et al, against dependent Claim 6. McCalley et al relates to an interactive communications system in which signals, which have been selected by a user by means of a telephone line, are transmitted to the user by means of a CATV cable. Even if the structure of McCalley et al were to be combined with the structures of Naden, Kliger et al and Sezaki, the combination would not show or suggest any search for an available frequency band, since such a search is inconsistent with Sezaki, who multiplexes all of his data into a single signal. It is therefore clear that McCalley et al is no more relevant to Claim 6 than it is to its parent

Claim 1. It is therefore clear that McCalley et al does not affect the patentability of Claim 6.

The Examiner has further applied US 5,537,141, to Harper et al, against dependent Claim 7. Harper et al relates to an interactive learning system in which each student is allowed to react with a teacher who is teaching multiple students. Even if the structure of Harper et al were to be combined with the structures of Naden, Kliger et al and Sezaki, the combination would not show or suggest any search for an available frequency band, since such a search is inconsistent with Sezaki, who multiplexes all of his data into a single signal. It is therefore clear that Harper et al is no more relevant to Claim 7 than it is to its parent Claim 1. It is therefore clear that Harper et al does not affect the patentability of Claim 7.

The Examiner has applied Naden, Kliger et al, Sezaki, and Thomas et al, to reject dependent Claim 8. The Appellants submit that the combination of Thomas et al. with Sezaki is improper, as explained above. The Appellants therefore submit that Claim 8 is patentable as its parent Claim 1.

The Examiner has applied Naden, Kliger et al, Sezaki, Thomas et al, and US 6,049,717 to Dufour et al, to reject dependent Claim 9. Dufour et al relates to a thee-step frequency selection process in a cellular telephone system, in order to minimize interference between mobile units. Any frequency selection system is inconsistent with Sezaki, as explained above. The Appellants therefore submit that, similar to Thomas et al, Dufour et al may not be properly combined with Sezaki. It is therefore clear that Dufour et al does not affect the patentability of Claim 9.

The Examiner has asserted Naden, Kliger et al, Sezaki, and Thomas et al, against Claims 12 and 13. The Appellants submit that the combination of Thomas et al with Sezaki is improper for reasons discussed above. The appellants therefore submit that dependent Claims 12 and 13 are patentable as their parent Claim 10.

The Examiner has applied Naden, Kliger et al, Sezaki, Thomas et al, and McCalley et al to dependent Claim 14. As explained above, even if the structure of McCalley et al were to be combined with the structures of Naden, Kliger et al, Sezaki, and Thomas et al, the combination would not show or suggest any search for an available frequency band, since such a search is inconsistent with Sezaki, who multiplexes all of his data into a single signal. It is therefore clear that the Examiner's proposed combination is improper, and that dependent Claim 14 is patentable as its parent Claim 10.

The Examiner has applied Naden, Kliger et al, Sezaki, Thomas et al, McCalley et al and Harper et al to dependent Claim 15. Since, as explained above, the combination of Sezaki and Thomas et al is improper, the Appellants submit that dependent Claim 15 is patentable as its parent Claim 10.

The Examiner has applied Naden, Kliger et al, Sezaki, and Thomas et al, to dependent Claim 16. As explained above, the combination of Sezaki and Thomas et al is improper. It is therefore clear that dependent Claim 16 is patentable as its parent Claim 10.

The Examiner has applied Naden, Kliger et al, Sezaki, Thomas et al, Dufour et al and Harper et al to dependent Claim 17. As explained above, the combination of Sezaki and Thomas et al is improper. It is therefore clear that dependent Claim 17 is patentable as its parent Claim 10.

The Examiner has applied Naden, Kliger et al, Sezaki, Thomas et al, and RG-59 cable to dependent Claim 21. As explained above, the combination of Sezaki and Thomas et al is improper. It is therefore clear that dependent Claim 21 is patentable as its parent Claim 20.

The Examiner has applied Naden, Kliger et al, Sezaki, and Thomas et al to dependent Claims 22 -24. As explained above, the combination of Sezaki and Thomas et al is improper. It is therefore clear that dependent Claims 22 are patentable as their parent Claim 20.

The Examiner has applied Naden, Kliger et al, Sezaki, Thomas et al, and McCalley et al, to dependent Claim 25. As explained above, the combination of Sezaki and Thomas et al is improper. It is therefore clear that dependent Claim 25 is patentable as its parent Claim 20.

The Examiner has applied Naden, Kliger et al, Sezaki, Thomas et al, McCalley et al and Harper et al, to dependent Claim 26. As explained above, the combination of Sezaki and Thomas et al is improper. It is therefore clear that dependent Claim 26 is patentable as its parent Claim 20.

The Examiner has applied Naden, Kliger et al, Sezaki, and Thomas et al, to dependent Claim 27. As explained above, the combination of Sezaki and Thomas et al is improper. It is therefore clear that dependent Claim 27 is patentable as its parent Claim 20.

The Examiner has applied Naden, Kliger et al, Sezaki, Thomas et al, Dufour et al and Harper et al to dependent Claim 28. As explained above, the combination of Sezaki and Thomas et al is improper. It is therefore clear that dependent Claim 28 is patentable as its parent Claim 20.

Conclusion

The Appellants therefore submit that the rejection of Claims 1-17 and 20-28 should be reversed. A notice to that effect is respectfully solicited.

Respectfully submitted,

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CLAIMS APPENDIX

1. A server apparatus (20), comprising:

receiving means (21) for receiving broadcast signals;

first processing means (28, 29) for generating first analog signals responsive to said received signals;

second processing means (31-33) for generating second analog signals responsive to said received signals, wherein the first analog signals have a different encoding than the second analog signals, and said first analog signals are provided to a first client device (50) via a transmission medium connecting said server apparatus (20) and said first client device (50) in response to a first request signal requesting a first desired processed analog signal by identifying a first program and further wherein said second analog signals are provided to a second client device (60) via said transmission medium connecting said server apparatus (20) and said second client device (60) in response to a second request signal requesting a second desired processed analog signal by identifying a second program; and

control means (35) for detecting available frequency bands on said transmission medium, wherein said available frequency bands are used to provide said first analog signals to said first client device (50) and to provide said second analog signals to said second client device (60), and

means for causing said transmission medium to be shared between said processed analog signals and other broadcast signals distributed over said transmission medium.

2. The server apparatus (20) of claim 1, wherein said transmission medium includes RG-59 cable.

3. The server apparatus (20) of claim 1, wherein said broadcast source includes a satellite source.

4. The server apparatus (20) of claim 1, wherein said broadcast source includes a digital terrestrial source.

5. The server apparatus (20) of claim 1, wherein said receiving means (21) processes said received signals to generate a digital transport stream.

6. The server apparatus (20) of claim 5, wherein said first processing means (28, 29) includes:

A/V processing means (28) for processing said digital transport stream to generate analog baseband signals; and

modulating means (29) for modulating said analog baseband signals to generate said first analog signals.

7. The server apparatus (20) of claim 5, wherein said second processing means (31-33) includes:

encoding means (31) for encoding said digital transport stream to generate encoded digital signals;

digital-to-analog converting means (32) for converting said encoded digital signals to analog baseband signals; and

modulating means (33) for modulating said analog baseband signals to generate said second analog signals.

8. The server apparatus (20) of claim 1, wherein said control means (35) scans a plurality of frequency bands on said transmission medium to detect said available frequency bands.

9. The server apparatus (20) of claim 1, wherein said control means (35) detects said available frequency bands based on a user input which selects said available frequency bands.

10. A method (400) for distributing signals from a server apparatus to a first client device and a second client device, comprising steps of: receiving signals from a broadcast source (410);

generating first analog signals responsive to said received signals (430);

generating second analog signals responsive to said received signals (440), wherein the first analog signals have a different encoding than the second analog signals;

detecting an available frequency band on said transmission medium (420), wherein said available frequency band is used to provide said first analog signals to said first client device;

providing said first analog signals to said first client device via said transmission medium connecting said server apparatus and said first client device (450) in response to a first request signal requesting a first desired analog signal by identifying a first program;

detecting an available frequency band on said transmission medium (420), wherein said available frequency band is used to provide said second analog signals to said second client device; and

providing said second analog signals to said second client device via said transmission medium connecting said server apparatus and said second client device (460) in response to a second request signal requesting a second desired analog signal by identifying a second program, thereby causing said transmission medium to be shared between said analog signals and other broadcast signals distributed over said transmission medium.

11. The method (400) of claim 10, wherein said transmission medium includes RG-59 cable.

12. The method (400) of claim 10, wherein said broadcast source includes a satellite source.

13. The method (400) of claim 10, wherein said broadcast source includes a digital terrestrial source.

14. The method (400) of claim 10, wherein said step of generating said first analog signals (430) includes:

processing said received signals to generate a digital transport stream (432);

processing said digital transport stream to generate analog baseband signals (434); and

modulating said analog baseband signals to generate said first analog signals (436).

15. The method (400) of claim 10, wherein said step of generating said second analog signals (440) includes the steps of:

processing said received signals to generate a digital transport stream (442);

encoding said digital transport stream to generate encoded digital signals (444);

converting said encoded digital signals to analog baseband signals (446); and

modulating said analog baseband signals to generate said second analog signals (448).

16. The method (400) of claim 10, wherein said detecting step (420) includes scanning a plurality of frequency bands on said transmission medium to identify said available frequency band.

17. The method (400) of claim 10, wherein said detecting step (420) is performed based on a user input which selects said available frequency band.

20. A server apparatus (20), comprising:

a receiving element (21) operative to receive broadcast signals;

first processing elements (28, 29) operative to generate first analog signals responsive to said received signals;

second processing elements (31-33) operative to generate second analog signals responsive to said received signals, wherein the first analog signals have a different encoding than the second analog signals; and

a controller (35) operative to detect available frequency bands on said transmission medium, wherein said first analog signals are provided to a first client device (50) via a transmission medium connecting said server apparatus (20) in response to a first request signal requesting a first desired analog signal by identifying a first program and said first client device (50) and further wherein said second analog signals are provided to a second client device (60) via said transmission medium connecting said server apparatus (20) and said second client device (60) in response to a second request signal requesting a second desired analog signal by identifying a second program, and further wherein said available frequency bands are used to provide said first analog signals to said first client device (50) and to provide said second analog signals to said second client device (60).

21. The server apparatus (20) of claim 20, wherein said transmission medium includes RG-59 cable.

22. The server apparatus (20) of claim 20, wherein said broadcast source includes a satellite source.

23. The server apparatus (20) of claim 20, wherein said broadcast source includes a digital terrestrial source.

24. The server apparatus (20) of claim 20, wherein said receiving element (21) is further operative to process said received signals to generate a digital transport stream.

25. The server apparatus (20) of claim 24, wherein said first processing elements (28, 29) include:

an A/V processor (28) operative to process said digital transport stream to generate analog baseband signals; and

a modulator (29) operative to modulate said analog baseband signals to generate said first analog signals.

26. The server apparatus (20) of claim 24, wherein said second processing elements (31-33) include:

an encoder (31) operative to encode said digital transport stream to generate encoded digital signals;

a digital-to-analog converter (32) operative to convert said encoded digital signals to analog baseband signals; and

a modulator (33) operative to modulate said analog baseband signals to generate said second analog signals.

27. The server apparatus (20) of claim 20, wherein said controller (35) scans a plurality of frequency bands on said transmission medium to detect said available frequency bands.

28. The server apparatus (20) of claim 20, wherein said controller (35) detects said available frequency bands based on a user input which selects said available frequency bands.

Evidence Appendix

The Appellants assert that there is no evidence to be submitted in accordance with this section.

Related Proceedings Appendix

The Appellants assert that there are no other proceedings related to this application.